United Nations S/2006/768

Security Council

Distr.: General
26 September 2006

Original: English

Letter dated 26 September 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report of Tunisia submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 18 September 2006 from the Permanent Representative of Tunisia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: French]

With reference to your letter dated 4 April 2006, I have the honour to transmit herewith information relating to the implementation by Tunisia of the provisions of Security Council resolution 1624 (2005) (see enclosure).

I take this opportunity to reiterate Tunisia's commitment to cooperating fully with the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in the discharge of its mandate.

(*Signed*) Ali **Hachani**
Ambassador
Permanent Representative

Enclosure

Replies to the questions on the implementation of Security Council resolution 1624 (2005)

1. Implementation of resolution 1624 (2005)

Paragraph 1

1.1 What measures does Tunisia have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

1. The measures in place to prohibit by law incitement to commit a terrorist act or acts are as follows:

- Under Act No. 2003-75 of 10 December 2003 concerning support for international efforts to combat terrorism and prevent money-laundering, incitement to commit a terrorist act or acts is subject to the same regime as an offence classified as a terrorist act.

  Article 11 of the Act provides as follows:

  "Anyone who incites the commission of a terrorist offence or conspires to commit such an offence, or intends to commit such an offence, where that intention is accompanied by any act preparatory to the commission of such an offence, shall be guilty of a terrorist offence."

- Article 12 of the 2003 Act establishes a penalty of imprisonment for a term of 5 to 12 years and a fine of 5,000 to 20,000 dinars for anyone who, by any means, incites the commission of terrorist offences or encourages membership of an organization or entry into an agreement relating to terrorist offences, or who uses a name, term, symbol or any other sign for the purpose of advocacy for a terrorist organization, one of its members or its activities.

- Article 19 of the Child Protection Code prohibits the exploitation of children in various forms of organized crime, including inculcating fanaticism and hatred in children and inciting them to commit acts of violence or terror.

- Under article 42 of Organic Act No. 93-85 of 2 August 1993 amending the Press Code, anyone who, through the press or by any other intentional means of dissemination, directly incites the perpetrator or perpetrators to commit a serious or minor offence, where such incitement results in the commission of such an offence, shall be considered an accomplice to said offence.

  This provision shall also be applicable where the incitement results only in an attempt to commit an offence, as established in article 59 of the Criminal Code.

- Article 44 of the Press Code establishes a penalty of imprisonment for a term of two months to three years and a fine of 1,000 to 2,000 dinars (US$ 1 = 1.32 D) for anyone who, by the means mentioned in article 42, directly incites hatred among races, religions or peoples, the dissemination of opinions based on racial segregation or religious extremism, the commission of the offences set out in article 48 of this Code, or the infringement of national laws.

– Article 54, paragraph 4 (new), of the Press Code provides that, where the offence is committed by the means mentioned above against a group of persons who belong by origin to a particular race or religion and for the purpose of inciting hatred among citizens or inhabitants, the penalty shall be imprisonment for a maximum of one year and a fine of 1,200 dinars.

2. Measures taken to prevent incitement to commit a terrorist act or acts:

– Article 5 of the Constitution of the Republic of Tunisia guarantees fundamental freedoms and human rights in the universal, global, complementary and interdependent sense.

The Republic of Tunisia is founded on the principles of the rule of law and pluralism. It strives for the dignity and personal development of human beings.

State and society strive to entrench the values of solidarity, mutual assistance and tolerance among individuals, groups and generations.

The Republic of Tunisia guarantees the inviolability of the person and freedom of conscience and protects freedom of worship.

– Article 8 of the Constitution provides that political parties shall commit themselves to prohibiting all forms of violence, fanaticism, racism and discrimination.

Political parties may not base their principles, purposes, activities or programmes fundamentally on any religion, language, race, sex or region.

– Article 2 of Organic Act No. 88-32 of 3 May 1988 concerning the organization of political parties provides that political parties shall act within the bounds of the Constitution and the law. They shall also prohibit all forms of violence, as well as fanaticism, racism and all other forms of discrimination. Political parties may not base their principles, activities or programmes fundamentally on any religion, language, race, sex or region.

– Article 3, paragraph 2, of Act No. 2002-80 of 23 July 2002 concerning education and school teaching policy states:

"The purpose of education is also to entrench all the values shared by Tunisians that are based on the primacy of knowledge, work, solidarity, tolerance and moderation. Education serves to guarantee the establishment of a society that attaches great importance to its cultural identity, is open to modernity and is inspired by humanist ideals and universal principles of liberty, democracy, social justice and human rights."

– The purpose of article 1, paragraph 2, of the Child Protection Code is to ensure that children are brought up in dignity and that a culture of human brotherhood and openness to others is instilled in them, in accordance with the requirements of scientific education guidelines, and to prepare for them a free and responsible life in a civil society where the values of equity, tolerance and moderation prevail.

1.2 What measures does Tunisia take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

- Incitement to commit a terrorist act or acts constitutes a terrorist offence under articles 11 and 12 of the 2003 Act mentioned above. Thus, under article 59 of the Act, it is not considered a political offence, and the perpetrator may not, therefore, benefit from the right of asylum.

- Similarly, article 60 of the 2003 Act provides that terrorist offences shall be extraditable in accordance with the provisions of article 308 et seq. of the Code of Criminal Procedure, where they are committed outside the territory of Tunisia by a person who is not a Tunisian subject against an alien or foreign interests or a stateless person, if the perpetrator is on Tunisian territory.

Extradition is granted only if a proper request made by a competent State pursuant to its domestic law is submitted to the competent Tunisian authorities, and provided that the Tunisian courts have not already ruled on the case in accordance with the regulations governing their jurisdiction.

Paragraph 2

1.3 How does Tunisia cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

- The Tunisian security services have put in place a border control system appropriate to current requirements by strengthening border posts (land, sea and air) with specialized staff and the technical and technological means necessary to detect all possible attempts to enter or leave Tunisian territory using fraudulent travel documents.

- Organic Act No. 2004-6 of 3 February 2004, amending and supplementing Act No. 75-40 of 14 May 1975 concerning passports and travel documents, establishes a penalty of imprisonment for a term of 3 months to 20 years for anyone involved in operations relating to illegal immigration.

- In addition, the competent Tunisian authorities have made efforts to ensure the security and preservation of all administrative and official documents, in particular the national identity card, so as to guard against any form of counterfeiting or use by terrorist elements. These steps are additional to the introduction, as of 25 July 2003, of a new type of passport that meets international standards against counterfeiting.

- The competent Tunisian authorities have also instructed the security units at land, sea and air border posts to be rigorous in verifying the identity of travellers, particularly persons that arouse suspicion or doubt by their appearance and traits, and to be absolutely vigilant in order to establish the real identity of such persons and the real reasons for their journeys.

Paragraph 3

1.4 What international efforts is Tunisia participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Tunisia has undertaken, in particular, the following initiatives and action:

- The adoption in 1995 of the Carthage Charter on Tolerance in the Mediterranean, at the International Conference on the Teaching of Tolerance in the Mediterranean Area, which was held in Tunis;
- The establishment on 7 November 2001, at the initiative of His Excellency the President of the Republic of Tunisia, Mr. Zine El Abidine Ben Ali, of the Ben Ali Chair for Dialogue among Civilizations and Religions, whose main purpose is to encourage knowledge of other civilizations and religions;
- The launch of the Tunis Appeal for Dialogue among Civilizations, following the international symposium "Dialogue among Civilizations: Theory and Practice", held in Tunis on 12 and 13 November 2001 at the initiative of the Islamic Educational, Scientific and Cultural Organization;
- The launch on 7 November 2002 by the President of the Republic of Tunisia of the initiative to hold an international conference, under the auspices of the United Nations, for the purpose of elaborating a code of conduct for the fight against terrorism;
- The establishment in 2003 of an international prize of the President of the Republic for Islamic studies that encourage enlightened reflection;
- The institution by Tunisia of the first International Prize for Solidarity in 2004;
- The establishment on 3 May 2005 of the Tunis Forum for Peace as part of cooperation between the Government of Tunisia and the Organization of the Islamic Conference;
- The holding in Tunis on 30 January 2006 of the International Symposium on Human Civilizations and Cultures: from Dialogue to Alliance, at the end of which the Tunis Declaration on the Alliance of Civilizations was read out.

1.5 What steps is Tunisia taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

1. Steps to counter incitement of terrorist acts motivated by extremism and intolerance:

Article 6 of Act No. 2003-75 of 10 December 2003, mentioned above, provides that "acts of incitement, by whatever means, to hatred or racial or religious fanaticism are subject to the same regime as offences that are classified as terrorist acts".

2. Steps to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters:

- Article 5, paragraph 4, of the Constitution provides that the Republic of Tunisia shall guarantee the inviolability of the person and freedom of conscience and shall protect freedom of worship.
- Article 165 of the Criminal Code establishes a penalty of imprisonment for a term of six months and a fine of 120 dinars for anyone who hinders or disrupts

the practice of religion or religious ceremonies, without prejudice to the more severe penalties incurred for insults, assault or threats.

- Article 166 of the Criminal Code establishes a penalty of imprisonment for a term of three months for anyone who forces a person by means of violence or threats to practise or refrain from practising a religion.

- Article 167 et seq. of the Criminal Code establish a number of offences relating to graves. Any desecration of a grave is punishable by imprisonment for a term of two years.

- Article 5 of the Act concerning mosques of 3 May 1988 prohibits any activity in mosques, in the form of speeches, meetings or writing, by persons other than those belonging to the body responsible for the running of the mosque.

- Article 11 of the Act concerning mosques establishes a penalty of imprisonment for a term of one year and a fine of 1,000 dinars, or either of the two penalties, solely for anyone who incites rebellion in a mosque.

- Article 3, paragraph 2, of Act No. 2002-80 of 23 July 2002 concerning education and school teaching policy stipulates that an additional purpose of education is to entrench all the values shared by Tunisians that are based on the primacy of knowledge, work, solidarity, tolerance and moderation. Education serves to guarantee the establishment of a society that attaches great importance to its cultural identity, is open to modernity and is inspired by humanist ideals and universal principles of liberty, democracy, social justice and human rights.

Paragraph 4

1.6 What is Tunisia doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?

- Tunisia has always striven to reconcile the need to protect society against terrorism with the need to respect human rights.

- In this regard, article 1 of the 2003 Act mentioned above provides that the law shall guarantee the right of society to live in security and peace, protected from anything that may undermine its stability, and to reject all forms of deviance, violence, fanaticism, racial segregation and terrorism that threaten the peace and stability of societies. It also contributes to supporting the international effort to combat all forms of terrorism, tackling the sources of financing of terrorism and suppressing money-laundering within the framework of the international, regional and bilateral conventions ratified by the Republic of Tunisia and in compliance with constitutional guarantees.

- The 2003 Act did not establish special courts. The ordinary courts retain jurisdiction over terrorist offences.

- Periods of custody and preventive detention are the same as for other offences; they have not been increased, and the rights of the defence are guaranteed.

- The Higher Committee on Human Rights and Fundamental Freedoms was established by decree No. 91-54 of 7 January 1991. The Committee is

responsible for working for the promotion and protection of human rights and fundamental freedoms.

- The establishment in 2002 of the post of General Coordinator for Human Rights within the Ministry of Justice and Human Rights has consolidated Tunisia's commitment to human rights.

- By decree No. 2006-1051 of 20 April 2006, the National Commission on International Humanitarian Law was established, with responsibility for the following:

1. Submitting proposals and studies on the implementation of international humanitarian law at the national level;

2. Submitting the proposals necessary to adapt national legislation to the rules of international humanitarian law;

3. Proposing an annual plan for the dissemination and national application of international humanitarian law culture, and coordination with the relevant bodies to ensure that the proposed plan is implemented;

4. Ensuring cooperation with humanitarian committees, associations and organizations active in the field of international humanitarian law.

- With regard to measures taken to ensure respect for the rights of refugees, the right of asylum is enshrined in article 17 of the Tunisian Constitution, which prohibits the extradition of political refugees.

- Tunisia has consistently contributed to international efforts to protect refugees and ensure their right to asylum. It ratified the Convention relating to the Status of Refugees of 28 July 1951 and the Protocol thereto on 2 June 1955 and 27 July 1968 respectively.